

Message

From: Hicks, Matt [Hicks.Matthew@epa.gov]
Sent: 2/21/2019 6:58:32 PM
To: Palmer, Leif [Palmer.Leif@epa.gov]
CC: Ghosh, Mita [Ghosh.Mita@epa.gov]; Rubini, Suzanne [Rubini.Suzanne@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]
Subject: RE: FL 404 Assumption Status

I forgot to add the following:

R4 staff have received a letter from the Conservancy of Southwest Florida indicating that they would like to track and be involved in the review of FDEP's application. R4 is drafting a response indicating receipt of the letter.

From: Hicks, Matt
Sent: Thursday, February 21, 2019 1:50 PM
To: Palmer, Leif <Palmer.Leif@epa.gov>
Cc: Ghosh, Mita <Ghosh.Mita@epa.gov>; Rubini, Suzanne <Rubini.Suzanne@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Subject: FL 404 Assumption Status

Leif,

The EPA assumption team had our FL 404 Assumption bi-weekly briefing with Jeaneanne Gettle this morning and provided her an update of where things stand with FL's assumption efforts. According to FDEP staff, Governor DeSantis is supportive of FL's efforts to assume the program but FDEP has not received clear direction from the Governor's office about moving forward. According to Jeaneanne, Secretary Valenstein has been nominated to continue as FDEP Secretary which should help ensure some level of continuity. FL's draft rule implementing the 404 program remains with Secretary Valenstein and FDEP staff have no timetable for when the rulemaking may resume.

Region 4 staff spoke to Corps staff the week of 2/11 and learned that the Assistant Secretary of the Army had been briefed on the EPA edits to the Corps/FDEP MOA and decision-making regarding the edits would be made at a high level.

Ex. 5 Deliberative Process (DP)

On the EPA/FDEP MOA, FDEP staff recently raised some questions about the purpose of the general provisions OGC added to the version we sent FDEP on November 2nd. Simma explained that they were added by the Deputy General Counsel and are consistent with EPA's MOA handbook. Ultimately, it doesn't look like FDEP has any substantive issues with the provisions but they are waiting to see if the Corps has any objections to similar provisions added to the Corps/FDEP MOA.

On the 5-way MOA, Region 4 assisted OGC in December with preparing briefing papers on 404 Assumption and the 5-way MOA to be used for ongoing discussions between EPA leadership and the DOI Secretary's Office. It is our understanding that David Fotouhi sent the two briefing papers to DOI on February 5th but we have no information on next steps for the 5-way MOA at this time.

Jeaneanne is attending a conference in Florida on Monday (2/25) entitled "Florida Engineering Society 2019 Winter Water Seminar" where she will serve on a panel entitled "Assumption of the Federal Wetland Permitting Program." Also on the panel will be John Truitt (Deputy Secretary of FDEP), David Childs (Hopping Green), and Jennifer Goff (Florida Fish and Wildlife Conservation Commission).

For the exception of the MOA updates mentioned above, no progress has been made on the assumption deliverables. In terms of percent completeness, the usual caveats apply about these being rough estimates of deliverable completeness including how far along we are to getting review/signatures/buy-in from necessary parties.

- Letter from Governor requesting program approval (0%)
- Complete program description (5%)
- Attorney General's statement (80%)
- EPA/DEP MOA (~~80~~ 85%)
- Corps/DEP MOA (~~80~~ 85%)
- Copies of all applicable state statutes and regulations, including those governing applicable state administrative procedures (70%)

The 5-way MOA is not a required component per the 404 assumption regulations but it is something that will be part of FL's program so we've attempted to assign it a completeness number as well.

- 5-way MOA (15%)